IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.79 OF 2004

IN

SUMMARY SUIT NO.3207 OF 2003

M/s.Aluminium Enterprises. ...Plaintiff

vs.

M/s.Sam Metals. ...Defendant.

Mr.Swapnil Bangur i/b. Legal Associates, for Plaintiff.

Mr.J.S.Shah, for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 5th June, 2006.

P.C.:-

1. I have heard both the sides. Pursuant to the order passed by this Court in the Notice of Motion taken out by the defendant, the defendant has deposited the entire decreetal amount. After having heard the learned Counsel appearing for both the sides, in my opinion, the following order would meet the ends of justice:-

(i) The summons for judgment is disposed of. The defendant is granted leave to defend the suit.

(ii) The defendant is permitted to withdraw out of the amount

deposited by it the amount in excess of Rs.40,000/-. The withdrawal is permitted within a period of two weeks from today.

(iii) The Prothonotary and Senior Master of this Court shall permit the plaintiff to withdraw the amount of Rs.40,000/- which is the amount of principal claim in the suit, on furnishing bank guarantee to the satisfaction of the Prothonotary and Senior Master of this Court and on furnishing undertaking to re-deposit the amount, if so directed by this Court on such terms and conditions as may be directed by this Court with further undertaking that in case the plaintiff is directed to re-deposit the amount it will bring back the amount with such rate of interest as may be directed by this Court but the rate of interest shall not be less than 15% per annum.

(iv) The withdrawal by the plaintiff be permitted within a period of six weeks from today. If the plaintiff fails to withdraw the amount within the aforesaid period, the Prothonotary and Senior Master of this Court shall invest the amount in fixed deposit in a nationalised bank during the pendency of the suit.

(v) The defendant to file his written statement within a period of four weeks from today.